

# EX. B

PAULA K. COLBATH  
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Via Facsimile

January 16, 2008

Honorable Colleen McMahon  
500 Pearl Street, Room 640  
New York, New York 10007

Re: Shaw Family Archives, Ltd., et al. v. CMG Worldwide, Inc., et al.; Index No. 05 Civ. 3939

Dear Judge McMahon:

We represent Defendant Marilyn Monroe LLC ("MMLLC"), and write in response to Mr. Serbagi's January 15, 2008 letter, in which he requests clarification as to whether the Court (i) intends to conduct a bench trial on the issue of Marilyn Monroe's domicile or submit it to a jury, and (ii) expects the pre-trial order to address both of the remaining claims, namely Plaintiffs' domicile claim and Defendants' public domain claim, or only domicile.

#### Seventh Amendment Right to Jury Trial

The parties have consistently demanded a jury trial in connection with the domicile issue and related "right of publicity" claims. Plaintiffs demanded a jury trial in their Second Amended Complaint dated August 8, 2007. Fed. R. Civ. P. 38(d) clearly provides that a demand for trial by jury, once made, may not be withdrawn without the consent of the parties. MMLLC does not consent.

Determination of domicile, as the Court recognized, is a "question of fact," which should be tried before a jury.<sup>1</sup> The fact that Plaintiffs' have sought a "declaratory judgment" does not deprive MMLLC of its Seventh Amendment right to trial by jury. Mr. Serbagi's argument to the contrary ignores "the long-settled rule that declaratory judgment actions are inherently neither equitable

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<sup>1</sup> Significantly, in a recent state court action in California, MMLLC recovered a vast collection of personal papers and property belonging to Marilyn Monroe ("Monroe") from Millington Conroy, the nephew of Monroe's personal assistant in the years immediately preceding her death. The papers include documents establishing that, among other things, in 1962 (i) Monroe purchased a house in California with a 15 year mortgage and referred frequently to her new "home" (this was the first home Monroe had ever owned); (ii) spent significant sums renovating, decorating and landscaping the home; (iii) Monroe's California expenses far surpassed her New York expenses, (iv) Monroe transferred all of her business operations and files to California; (v) Monroe hired California attorney Mickey Rudin as her primary legal counsel as well as agent; (vi) California was the "new headquarters" for both Marilyn Monroe and Marilyn Monroe Productions, Inc.; and (vii) Monroe notified the Connecticut Department of Motor Vehicles that her permanent address had changed from Roxbury, Connecticut to Los Angeles, California. Such factual evidence as to Marilyn Monroe's domicile is appropriately presented to a jury.

Honorable Colleen McMahon  
January 16, 2008  
Page 2

nor legal and that the nature of the underlying dispute determines whether a jury trial is available." *Rosenman & Colin v. Richard*, 850 F.2d 57, 60 (2d Cir. 1988); see also, e.g., *Simler v. Conner*, 372 U.S. 221, (1963) ("The fact that the action is in form of a declaratory judgment case should not obscure the essentially legal nature of the action."); *Mile High Indus. v. Cohen*, 222 F.3d 845, 856 (10th Cir. 2000) ("It is the issues, not the form of the complaint, that will determine the method of trial," and a "request for declaratory relief may be legal or equitable depending on the basic nature of the underlying issues") (quotations and citations omitted); *Archie Comic Publications, Inc. v. DeCarlo*, 00 Civ. 5686, 2002 U.S. Dist. LEXIS 283, at \*2 (S.D.N.Y. Jan. 11, 2002) (empaneling jury where "[d]efendant maintains that the action in substance is one for copyright infringement, albeit inverted by means of the declaratory judgment mechanism").

Indeed, to the extent that Plaintiffs have standing to seek a declaratory judgment on domicile (which MMLLC disputes), such standing is based on Plaintiffs' contention that MMLLC and CMG intend to seek reconsideration of the "right of publicity" claims in their Second Amended Complaint (which were dismissed by the Court), in connection with which MMLLC and CMG did assert a jury demand. Plaintiffs should not be permitted to evade Defendants' jury demand by attempting to resolve such inherently legal issues through the mechanism of a declaratory judgment. Cf. *Wm. Passalacqua Builders, Inc. v. Resnick Developers South, Inc.*, 933 F.2d 131, 135 (2d Cir. 1991) (jury trial is appropriate in "suits in which *legal* rights are to be ascertained and determined") (emphasis in original).

#### **The Parties' Joint Pre-trial Order Must Include Defendants' Public Domain Claim**

Magistrate Judge Fox's June 11, 2007 scheduling order clearly provided that the parties' joint pre-trial order was to be due on January 15, 2008 – the scheduling order did not suggest that only selected claims were to be included. Accordingly, Defendants have been diligently preparing a pre-trial order that would cover both claims remaining in this case. Plaintiffs should not be permitted, at this late date, to drastically limit the scope of the pre-trial order.

More importantly, Defendants also respectfully request that, in the interest of judicial economy, the "domicile" and "public domain" claims remaining in this case be tried together. The public domain issue is inextricably intertwined with the domicile issue. Plaintiffs and Defendants are each in the "Marilyn Monroe" business, MMLLC by virtue of its rights under trademark, copyright and publicity, and Plaintiffs by virtue of their alleged copyrights. For years Plaintiffs have been asserting vague and expansive claims based upon their exclusive rights in the Marilyn Monroe photographs by Sam Shaw. The evidence is compelling that the most famous and, in Plaintiffs' words, "iconographic" of those photographs, at the very least, are in the public domain. Indeed, Defendants intend to establish that, to the extent Plaintiffs do not possess any valid copyrights in Marilyn Monroe photographs, they lack standing to seek a declaration as to Marilyn Monroe's domicile.

"[S]eparation of issues for trial is not to be routinely ordered," see 1966 Advisory Committee Notes to Fed. R. Civ. P. 42, and bifurcation is inappropriate where, as here, the issues are intertwined and the claims will involve several of the same witnesses. See, e.g., *Vichare v. AMBAC Inc.*, 106 F.3d 457, 466-67 (2d Cir. 1996); *Morse/Diesel, Inc. v. Fidelity and Deposit Co. of Maryland*, 763 F. Supp. 28, 35 (S.D.N.Y. 1991). Thus, in order to avoid unnecessary delay and expense associated with multiple trials, and to ensure that Defendants are not prejudiced

Honorable Colleen McMahon  
January 16, 2008  
Page 3

with respect to their potential "standing" defense, Defendants respectfully request that the remaining claims be resolved in a single proceeding.

We thank the Court for its assistance in this matter.

Respectfully submitted,



Paula K. Colbath

cc: Christopher Serbagi, Esq. (via email)  
Theodore J. Minch, Esq. (via email)

EX. C

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHAW FAMILY ARCHIVES, LTD., EDITH  
MARCUS and META STEVENS,

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 1/12/2007

Plaintiffs,

-against-

05 Civ. 3939 (CM)(MDF)

CMG WORLDWIDE, INC., an Indiana Corporation  
and MARILYN MONROE LLC, a Delaware  
Corporation,

Defendants.

x

DISPOSITION OF VARIOUS PENDING MOTIONS

McMahon, J.:

In view of correspondence received from the parties, the various pending motions are disposed of as follows:

1. The Third through Eighth Causes of Action in the complaint are dismissed with prejudice.
2. The motion for a stay of discovery concerning lobbying has been dealt with by Magistrate Judge Fox, and so should be marked "decided."

The following issues remain in this case:

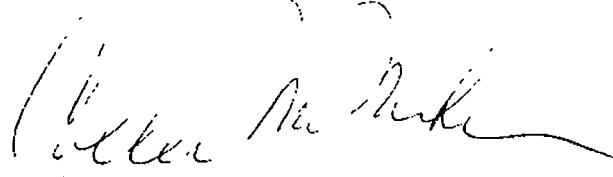
1. Plaintiffs' First and Second Causes of Action for copyright infringement
2. Plaintiffs' Ninth Cause of Action, for a declaration that Marilyn Monroe died a domiciliary of New York.
3. Defendants' Counterclaim for a declaration that plaintiffs do not possess a valid and enforceable copyright in various photographs of Marilyn Monroe.

Plaintiffs' Ninth Cause of Action remains in the case because the State of California recently passed a statute that purports to confer property rights on a dead person that were not possessed by that dead person at the time of her demise. Obviously, if plaintiff died a domiciliary

of the State of New York, where her will was probated, the California statute is of no moment. The determination of Ms. Monroe's domicile is a question of fact, and the court intends to sever that issue and try it early next year. The parties will be contacted shortly concerning the trial date.

However, if there is going to be any attack against the California statute on any legal ground, I want to be told that now and I want to know what the ground of attack is going to be, so that we can set an appropriate briefing schedule. I want to resolve all issues surrounding the newly-passed California statute, including the issue of domicile, in the next 90 days.

Dated: November 29, 2007

  
\_\_\_\_\_  
U.S.D.J.

BY ECF TO ALL COUNSEL

May 4th  
- 10:55 AM  
2008

**EX. D**

AMENDMENT INCL. COPY OF WILL + OTHER INTERESTED PARTIES +  
THEIR INTEREST  
SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

X

In the Matter of the Application of Nancy Miracle  
(the "Petitioner") to Open, Vacate, and Set Aside  
the Decrees of this Court, Dated October 30, 1962,  
Granting Letters Testamentary to Aaron R. Frosch,  
and Dated October 3, 2000, Granting Letters of  
Administration C.T.A. to Anna Strasberg, on the  
Goods, Chattels, and Credits which were of Nancy  
Cusumano, also known as Norma Jean Baker, and  
also known, and previously represented to this Court,  
as Marilyn Monroe, Deceased (the "Decedent")  
and to Open, Vacate, and Set Aside Decrees  
of this Court Settling the Accounts  
of said Aaron R. Frosch, as such Executor, and  
of said Anna Strasberg, as such Administratrix C.T.A.

INDEX NO.  
P 2781/1962

PETITION OF  
NANCY MIRACLE

X

TO THE SURROGATE'S COURT, COUNTY OF NEW YORK:

Pursuant to the provisions of Section 711 of the Surrogate's Court Procedure  
Act of the Laws of the State of New York (the "SCPA"), and all related provisions  
of the SCPA, the Petitioner hereby alleges as follows:

1. Petitioner is domiciled at 54 W 104th St (3E), County of  
New York, City of New York, State of  
New York.

2. Petitioner is the sole surviving child of the Decedent and as such is the  
next of kin and distributee of the Decedent, and therefore a person interested in this  
proceeding within the meaning of SCPA Section 711.

3. On August 5, 1962, the Decedent died a domiciliary of New York County,  
State of New York.

4. Shortly after the death of Decedent, the said Aaron R. Frosch filed with this Court a petition for the probate of the last will and testament of Marilyn Monroe (the "probate petition") seeking his appointment as Executor of the Decedent's estate (the "Estate").

5. On October 30, 1962, this Court, relying on the allegations of the probate petition, granted Letters Testamentary on the Estate to the said Aaron R. Frosch.

6. On information and belief (inasmuch as this Court's files containing the probate petition of the said Aaron R. Frosch are now apparently missing based on information supplied to Petitioner by the records division of this Court), in the probate petition filed with this Court by the said Aaron R. Frosch, Mr. Frosch made, *inter alia*, the following allegations:

- (a) That the Decedent's name was Marilyn Monroe, and
- (b) That the Decedent died leaving no surviving children.

7. Both of the above allegations by the said Aaron R. Frosch were false inasmuch as (i) the Decedent's true name was Nancy Cusumano, according to the records maintained by the United States Social Security Administration, and (ii) the Petitioner is the sole surviving child of the Decedent.

8. Upon information and belief, the said Aaron R. Frosch made no effort to ascertain the true name of the Decedent.

9. Upon information and belief, the said Aaron R. Frosch made no effort to ascertain and locate the next of kin and distributees of the Decedent, and did not advertise in any newspaper for that purpose, but immediately after Decedent's death, filed the probate petition with this Court seeking his appointment as Executor of the Estate.

10. The Petitioner was never served with any citation in the said proceeding to obtain Letters Testamentary, and no jurisdiction over the Petitioner was ever obtained by this Court.

11. Upon information and belief, the said Anna Strasberg, in applying for Letters of Administration C.T.A of the Estate, neither attempted to advise this Court of the falsity of the allegations described in Paragraph 6, above, nor ever

caused citations or other notice of her petition seeking her appointment as Administratrix C.T.A. of the Estate to be served upon Petitioner.

12. On information and belief, the said Aaron R. Frosch and the said Anna Strasberg, in obtaining said Letters Testamentary and Letters of Administration C.T.A., respectively, and in thereafter administering the Estate, acted negligently and fraudulently and in total disregard of the rights of Petitioner and with the design of depriving Petitioner of her reasonable expectation of sharing in the Estate.

13. Upon information and belief, on at least three separate occasions, the said Aaron R. Frosch and Anna Strasberg have presented petitions to this Court praying for the judicial settlement of their accounts as Executor and Administratrix, C.T.A., respectively, of the Estate (herein referred to as the "Estate Accounting Petitions"). In the case of each of the Estate Accounting Petitions, the Petitioner was omitted from the recitals therein of persons who were either (i) interested in the Estate, or (ii) a next of kin of Decedent, or (iii) a distributee of Decedent.

14. Upon information and belief, in none of the Estate Accounting Petitions is there any statement of facts which would give rise to a presumption of diligent search for Decedent's next of kin and/or distributees.

15. Thereafter, this Court, relying upon the allegations contained in the Estate Accounting Petitions, settled and approved the accounts of said personal representatives as set forth therein.

16. Inasmuch as the Estate Accounting Petitions omit acknowledgement of Petitioner as the child of Decedent, and inasmuch as Petitioner neither received any notice of the filing of the Estate Accounting Petitions nor was otherwise aware of their pendency, the Estate Accounting Petitions were submitted on the basis of false allegations therein and made in fraud of the legitimate rights of Petitioner in the Estate.

17. To the best of the Petitioner's knowledge, information and belief, the names of all persons interested in this proceeding who are required to be cited on the filing of this Petition, together with their places of residence and post office addresses, are as follows:

(a) Anton O. Kris and Anna Kris Wolff, pursuant to the Authorization of the Anna Freud Center, the Authorization of Anton O. Kris and the Authorization of Anna Kriss Wolff, who reside at 21 MARES field GARDENS  
HAMPSTEAD, LONDON NW3 5SD ENGLAND  
+ ANTONO. Kris MD 37 Philbrick RD Brookline Mass 02146  
+ ANNA K. Wolff MD 10 Channing Street Cambridge Mass. 02138

(b) Continental Insurance Company, a domestic corporation, the surety on the bond of said Anna Strasberg, as Administratrix C.T.A. of the Estate, the principal office of which is at  
Surety Dept, 39 Bway # 620 N.Y. N.Y. 10010

(c) The Attorney General of the State of New York, whose service address is 120 Bway, New York, New York  
and (Govt Agency) On Behalf of THE ANNA FREUD Centre

(d) Anna Strasberg, who resides at 135 Central Park West  
New York, NY 10023  
75% RESIDUE

(e) THE ANNA FREUD CENTRE 25% RESIDUE  
(Beneficiary ORGANIZATION)  
21 MARES field GARDENS  
HAMPSTEAD, LONDON  
NW3 5SD ENGLAND

(f) STROOCK, STROOCK + LAVAN ATTORNEYS FOR  
MARGORIE M. FROSCH, EXECUTRIX ESTATE OF AARON R. FROSCH  
180 MADISON AVENUE, NEW YORK, NY 10038

18. To the best of the Petitioner's knowledge, information and belief, there are no persons other than those above named who are interested in this proceeding, and all of the above named persons are of sound mind and all are of full age.

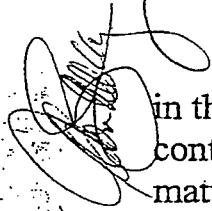
WHEREFORE, Petitioner prays that the persons named above may be cited to show cause why an Order should not be made by this Court to (1) open, vacate and set aside the decree of this Court granting Letters Testamentary to Aaron R. Frosch, as Executor of the Estate of Marilyn Monroe, (2) open, vacate and set aside the decree of this Court granting Letters of Administration C.T.A. to Anna Strasberg, as Administratrix C.T.A. of the Estate of Marilyn Monroe, (3) direct judgment against Aaron R. Frosch, individually, and as Executor of the Estate of Marilyn Monroe, in the sum of One Hundred Million Dollars (\$ 100,000,000.00), with interest thereon, (4) direct judgment against Anna Strasberg, individually, and as Administratrix C.T.A. of the Estate of Marilyn

Monroe, and against Continental Insurance Company, as surety on said Administratrix's Bond, in the sum of One Hundred Million Dollars (\$ 100,000,000.00), and (5) grant such other and further relief as to this Court shall seem just and proper.

PETITIONER:

  
Nancy Miracle

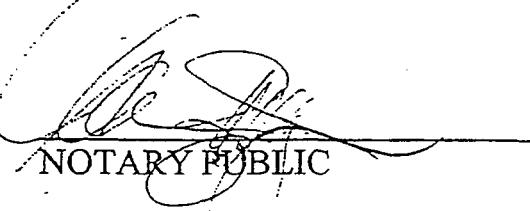
STATE OF NEW YORK  
COUNTY OF NEW YORK

  
Nancy Miracle, being duly sworn, deposes and says that she is the Petitioner in the within Petition, that she has read the foregoing Petition and knows the contents thereof, and that the same is true of her own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, she believes them to be true.

AMENDED

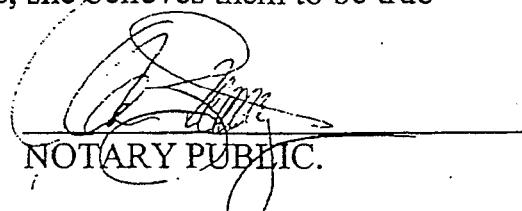
  
NANCY MIRACLE

Sworn to and subscribed before me this 26<sup>th</sup> day of February, 2002.

  
NOTARY PUBLIC

SHERIE YEUNG  
Notary Public, State of New York  
No. 01YE5019673  
Qualified in New York County  
Commission Expires October 25, 2005

On the 26<sup>th</sup> day of February, 2002, before me came Nancy Miracle, the Petitioner in the within Petition, and, being duly sworn, states that she has read the foregoing Petition and knows the contents thereof, and that the same is true to her own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, she believes them to be true

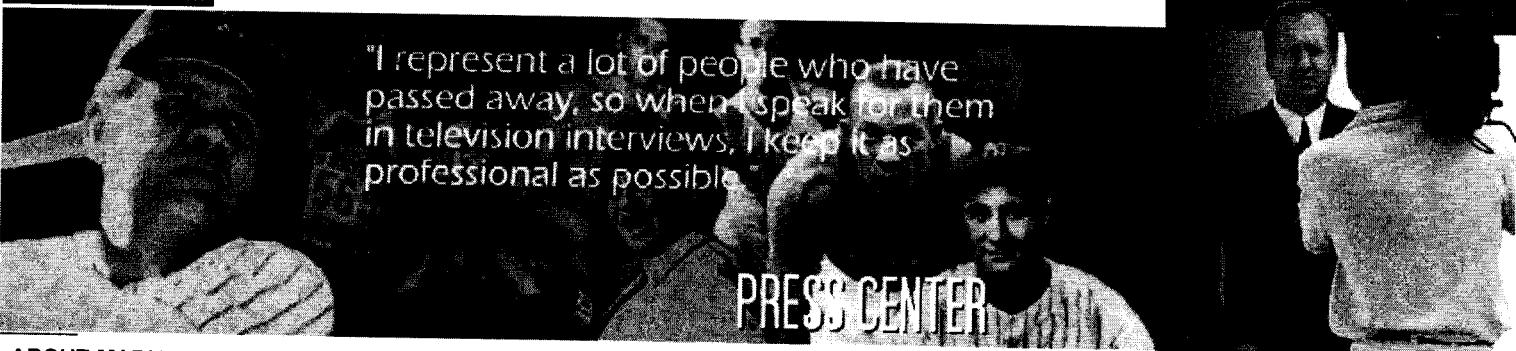
  
NOTARY PUBLIC.

SHERIE YEUNG  
Notary Public, State of New York  
No. 01YE5019673  
Qualified in New York County  
Commission Expires October 25, 2005

Sworn to and subscribed before me on the  
26<sup>th</sup> day of February, 2002  
(Amended)

**EX. E**

MARKROESLER.COM



"I represent a lot of people who have passed away, so when I speak for them in television interviews, I keep it as professional as possible."

**ABOUT MARK**

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**CURRENT NEWS****Statement by Mark Roesler concerning Recent Developement to Protect the Valuable Personality Rights of Deceased Celebrities**

03-21-2008

I am very pleased to report that this week the Governor of the State of Washington signed into law a revised right of publicity statute (SHB 2727) recognizing post mortem right of publicity regardless of whether the laws of the state of domicile of a living or deceased personality recognize publicity rights or not. This was in response to the recent case involving the rights of Jimi Hendrix, where the 9th Circuit Court of Appeals applied New York law instead of Washington law in determining whether the Estate of Jimi Hendrix could protect his post mortem rights. The 9th Circuit Appellate Court held that because Hendrix's domicile of New York did not currently protect post mortem rights, Washington law would not apply to protect Hendrix's rights in Washington. The court suggested that the legislature would have to address this issue, which the governor of Washington did this week. This follows the recent amendment that Governor Schwarzenegger signed this past October that clarified the rights of deceased celebrities in California.

CMG and its client, Marilyn Monroe LLC, received mixed news from California this past week. The good news was that the United States Court for the Central District of California granted summary judgment in favor of CMG and Marilyn Monroe LLC, dismissing claims against them filed by the family of photographers for alleged Lanham Act violations, common law unfair competition, statutory unfair competition, false advertising, and tortious interference with actual and prospective business relations. On a more challenging front is the finding by the court that Marilyn Monroe LLC was judicially estopped by statements of the Executor of Marilyn Monroe's Estate concerning Marilyn Monroe's New York residence at the time of her death. Because New York does not recognize a post-mortem right of publicity, the Court dismissed Marilyn Monroe LLC's right of publicity claims. This ruling will almost certainly be appealed to the Ninth Circuit Court of Appeals.

With both Indiana and newly revised Washington right of publicity statutes, however, Marilyn Monroe's right of publicity is firmly secured in at least these states and any acts that occur in those states are actionable under those state statutes. Marilyn Monroe's other intellectual property rights such as rights defined under the federal and international trademark laws, various copyrights, and her contractual rights with studios are unaffected by the recent finding by the California court.

Just as various states have legislatively addressed the rights of deceased personalities, New York is the next state that is under pressure to update its century old and outdated statute addressing personality rights. The New York law was enacted in 1905 to protect "living" personalities but has not been revised since then to include deceased personalities. The current New York law is clearly outdated and out of step with the majority of states and various

**MARCH CA' ENDAR**

Nothing scheduled at this time, please check back later

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countries that protect the rights of the heirs of deceased celebrities.

I am proud to continue to be advancing and protecting the rights of deceased personalities. I began this effort 27 years ago, in 1981 and despite the aggressive opposition that these efforts have always brought out, we have made tremendous progress around the world. My company is headquartered in Indiana with offices also in California and we protect and market almost 200 famous deceased personalities around the world. We will focus our efforts on correcting this obvious shortcoming in New York and we are confident that the citizens and famous celebrities from the state of New York, will not want the fruits of their labor taken from them after their death.

[Home](#) :: [About Mark](#) :: [Services](#) :: [Press Center](#) :: [CMG Worldwide](#) :: [IP Resources](#) :: [Rules for Success](#) :: [Site Information](#) :: [Search](#)  
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EX. F

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHAW FAMILY ARCHIVES LTD., EDITH :  
MARCUS and META STEVENS,

Plaintiffs,

Case No. 05 Civ. 3939 (CM)

-against-

Hon. Colleen McMahon

CMG WORLDWIDE, INC. and MARILYN :  
MONROE LLC,

STIPULATION

Defendants.

----- X

WHEREAS the parties have conferred in an effort to avoid spending time at trial  
authenticating documents about which there is no genuine dispute;

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned  
counsel that, for purposes of this action, all documents produced in discovery prior to the  
January 1, 2008 discovery deadline, except (i) those documents bearing a production number  
with the prefix "MC" and (ii) a purported audio recording of a 1955 radio interview of Marilyn  
Monroe and any transcript thereof, are authentic under Federal Rules of Evidence 901, et seq.;

IT IS FURTHER STIPULATED AND AGREED by and between the  
undersigned counsel that nothing in this Stipulation shall prevent any party from objecting to any  
document or piece of evidence on any ground other than authenticity.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: <u>3h1b8</u>
DATE FILED: <u>3h1b8</u>

**LAW OFFICES OF CHRISTOPHER SERBAGI**

By: Christopher Serbagi  
 Christopher Serbagi  
 488 Madison Avenue, Suite 1120  
 New York, New York 10022  
 Tel: (212) 593-2112  
 Fax: (212) 308-8582

*Attorneys for Shaw Family Archives, Ltd., Edith Marcus and Mata Stevens*

**LOEB & LOEB, LLP**

By: Paula K. Colbath  
 Paula K. Colbath  
 345 Park Avenue  
 New York, New York 10154-1895  
 Tel: (212) 407-4000  
 Fax: (646) 514-2887

*Attorneys for Marilyn Monroe LLC*

**SOVICH MINCH, LLP**

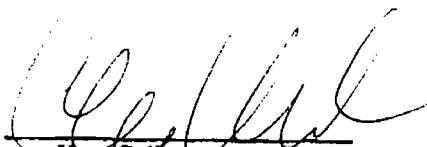
By: Theodore J. Minch, Esq.  
 10099 Chesapeake Drive, Suite 100  
 McCordville, Indiana 46055  
 Tel: (317) 335-3601  
 Fax: (317) 335-3602

*Attorneys for CMG Worldwide, Inc.*

Dated: New York, New York  
 March 6, 2008

So Ordered.

3/7/08



Hon. Colleen McMahon  
 U.S.D.J.

NY706720.1

LAW OFFICES OF CHRISTOPHER SERBAGI

By: \_\_\_\_\_  
Christopher Serbagi  
488 Madison Avenue, Suite 1120  
New York, New York 10022  
Tel: (212) 593-2112  
Fax: (212) 308-8582

*Attorneys for Shaw Family Archives, Ltd., Edith  
Marcus and Meta Stevens*

LOEB & LOEB, LLP

By: \_\_\_\_\_  
Paula K. Colbath  
345 Park Avenue  
New York, New York 10154-1895  
Tel: (212) 407-4000  
Fax: (646) 514-2887

*Attorneys for Marilyn Monroe LLC*

SOVICH MINCH, LLP

By: \_\_\_\_\_  
Theodore J. Minch, Esq.  
10099 Chesapeake Drive, Suite 100  
McCordsville, Indiana 46055  
Tel: (317) 335-3601  
Fax: (317) 335-3602

*Attorneys for CMG Worldwide, Inc.*

Dated: New York, New York  
March 6, 2008

So Ordered.

\_\_\_\_\_  
Hon. Colleen McMahon  
U.S.D.J.

NY706720.1

**EX. G**

Subject: SFA/Bradford v. CMG/MMLLC

To: "Paula Colbath" <pcolbath@loeb.com>

CC: tjminch@sovichminch.com, "Christopher Serbagi" <c.serbagi@earthlink.net>

Dear Paula

As per our agreement made during the deposition of David Strasberg, please find the enclosed list of documents, sorted by MM bates number, for David Strasberg, or Anna Strasberg, to authenticate and state whether they came from MMLLC's files as kept in the ordinary course of business. With respect to the Millington Conroy documents, explain the method in which the documents were obtained from Mr. Conroy and where they are presently located (please also provide any declaration/affidavit from Mr. Conroy if they exist regarding the maintenance and provenance of the documents).

Very truly yours,

David M. Marcus

---

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Attachments

Files:

 [David\\_Strasberg\\_documents\\_to\\_authenticate.pdf](#) (104k)

# EX. H

At a Special Term, Part II of the  
City Court, City of New York, County  
of New York, and State of New York, at the County Court-  
house, 52 Chambers Street, Borough  
of Manhattan, City of New York, on  
the 10th day of February, 1956.

P R E S E N T:

Provisions of this Order, and as and after the same is  
read by the Clerk, and upon the same being signed by  
HON. BIRDIE AMSTERDAM,  
Judge, 19th, the Petitioner, ~~Norma Jeane Mortenson~~, shall

be read by the Clerk of MARILYN MONROE, and by no other name,

and it is further

In the Matter of the Application of  
NORMA JEANE MORTENSON Index No. 1564/1956

ALLEGEDLY against MARILYN MONROE,  
for leave to change her name to  
MARISSA MONROE, and the applicant having been born

in the City of Los Angeles, County of Los Angeles, State of

California,

On the 10th day of February, 1956,  
On reading and filing the Petition of NORMA JEANE  
MORTENSON, duly verified the 10th day of February, 1956,  
praying for leave for NORMA JEANE MORTENSON to assume the  
name of MARILYN MONROE, and the applicant having been born

in the City of Los Angeles, County of Los Angeles, State of  
California,

AND the Court being satisfied by said Petition  
that the same is true and that there is no reasonable objec-  
tion to the change of name proposed.

NOW, THEREFORE, on motion of IRVING L. STEIN,

attorney for said Petitioner, it is  
of the City of New York ORDERED that upon compliance with this Order, the  
said NORMA JEANE MORTENSON be and she hereby is authorized to  
assume the name of MARILYN MONROE, on the 12th day of March,  
1956, and it is further

ORDERED that the order be entered and with the  
Petition hereto annexed be filed in the Office of the Clerk  
of this Court within ten (10) days after the signing hereof,

In witness whereof, I have hereunto subscribed my name  
and a copy of this order be published in the New York Herald  
Tribune, a newspaper published in the County of New York  
at least once within twenty (20) days after the entry

Sworn to before me this

day of

STATE OF NEW YORK,

COUNTY OF

of this Order, and that within forty (40) days after the making of this Order, the affidavit of publication thereof be filed with the Clerk of this Court, and upon compliance with all of the provisions of this Order, and on and after the 12 day of March, 1956, the Petitioner, NORMA JEANE MORTENSON shall be known by the name of MARILYN MONROE, and by no other name, and it is further

ORDERED that within twenty (20) days after the signing hereof, that a copy of this Order be served upon Peter R. Leonardi, plaintiff, or Sweet, Reinitz, Peskin & Sweet, the attorneys for the plaintiff, Peter R. Leonardi, in the action in the within Court entitled "Peter R. Leonardi, plaintiff against Marilyn Monroe Productions, Inc., and Marilyn Monroe, defendants" in accordance with Rule 20 of the Rules

of Civil Practice, or proof of such service be filed with the Clerk of this Court within ten days thereafter.

ENTER:

is because the said

corporation, and deponent Peter R. Leonardi

J. C. C.

Sworn to before me this

day of

State of New York  
County of New York

8993  
City Court of the City of New York  
NEW YORK COUNTY

Norma J. Mortenson  
against

Clerk's Office,  
City Court of The City of New York

I, James P. McDermott, Chief Clerk of the City Court of The City of New York, having compared the annexed copy in the above-entitled action, with the original on file in this office, do certify that the same is a correct transcript therefrom and of the whole of said original.

In Witness Whereof, I have hereunto subscribed my name

and affixed the Seal of the City Court of The City of New York, this 23<sup>rd</sup> day

of February 1956 J. P. McDermott Chief Clerk

Sworn to before me this

day of

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